

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMIR HAKIM MCCAIN
A/K/A JOHN MCCAIN

FILED

CIVIL ACTION

AUG 15 2012

MICHAEL E. KUNZ, Clerk
By: _____ Dep. Clerk

v.

SLIFER, VOICE & SHADE, VERITEXT
NATIONAL COURT REPORTING COMPANY, et al.: NO. 12-4506

M E M O R A N D U M

ROBRENO, J.

AUGUST 15, 2012

Plaintiff, a prisoner, is seeking to bring a civil action without prepayment of fees. He is alleging that he is being "Denied Access to the Courts of his Legal Materials & Evidence at a Deposition" because faulty audiotape equipment was used at a deposition that was held at SCI Graterford. In his prayer for relief, plaintiff is requesting money damages.

Pursuant to 28 U.S.C. § 1915(g), a prisoner who on three or more prior occasions while incarcerated has filed an action in a federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, must be denied in forma pauperis status unless he was in imminent danger of serious physical injury at the time that the complaint was filed. Abdul-Akbar v. McKelvie, 239 F.3d 307 (3d Cir.), cert. denied, 533 U.S. 953 (2001).

Plaintiff has, prior to the instant action, filed four civil actions in this Court and the Third Circuit Court of Appeals

which were dismissed as frivolous.¹ Furthermore, nothing in this complaint suggests that plaintiff was in imminent danger of serious physical injury at the time the complaint was filed.

Accordingly, plaintiff's motion to proceed in forma pauperis will be denied. An appropriate order follows.

¹ Plaintiff's appeal of Civil Action No. 08-1613 was dismissed as frivolous by the Third Circuit Court of Appeals on June 10, 2009. Civil Action Nos. 09-0785 and 09-2385 were dismissed as frivolous on April 27, 2009 and July 1, 2009, respectively, and Civil Action No. 09-2385 was dismissed as frivolous on appeal by Order dated October 22, 2009.